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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Billed Party Preference
for 0+ InterLATA Calls

CC Docket No. 92-77

REPLY COMMENTS IN OPPOSITION TO
NOTICE OF PROPOSED RULEMAKING

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One Call Communications, Inc., d/b/a OPTICOM ("Opticom"), by its attorneys, and on behalf of certain independent payphone providers ("IPPs"), a list of which is appended, hereby replies to the comments filed in this matter.

I. INTRODUCTION

Opticom remains convinced that the enormous costs of billed party preference ("BPP") outweigh the potential benefits of this system. BPP will confuse consumers of 0+ interLATA services, restrict competition among operator service providers ("OSPs"), interexchange carriers ("IXCs"), and independent payphone providers ("IPPs"), require an exorbitant amount of money to implement, and create boundless opportunities for prison inmates to perpetrate fraud and criminality.

A. SUMMARY OF COMMENTS FILED IN RESPONSE TO RULEMAKING

More than 55 parties filed comments in response to the Federal Communication Commission's (the "Commission's") Notice of

Proposed Rulemaking¹ ("NPRM"), the majority of which oppose the implementation of BPP. Parties opposed to BPP include IPPs, OSPs, IXCs, state legislators, state governmental authorities, various aggregators including airport authorities, correctional institutions, universities, and other users of telecommunications services.

The parties in opposition to BPP agree with Opticom that BPP's costs far outweigh its benefits. Many parties believe that if BPP were implemented, callers would be more confused than they are under the present system. Because BPP will not be universal, callers in certain areas would be assured of the billed party's choice of carrier while other callers in non-equal access locations and those dialing locally would not.² Caller frustration would, in addition, be exacerbated by having to provide the same information to more than one operator in order to complete a call, and by having to endure post dial delay when making 0+ interLATA calls.³

Opticom and other parties are also concerned that implementation of BPP would hurt competition in the OSP, IPP and

¹ Notice of Proposed Rulemaking In the Matter of Billed Party Preference for 0+ InterLATA Calls, CC Docket No. 92-77 (released May 8, 1992).

² See Comments of International Telecharge, Inc. at 4-6.

³ Comments of Opticom at 20. See also, Bell Atlantic Petition for Rulemaking at 5-6.

IXC industries.⁴ BPP would require that calls from payphones be handled initially by a LEC operator, thus precluding OSPs from providing such business and taking a crucial market from this nascent industry. IPPs would be devastated in their competition with the BOCs without being able to offer commissions to aggregators.⁵ IXC's that are unable to issue calling cards or operate on a nationwide basis will also be hurt by BPP.⁶

State prison authorities also filed comments in opposition to BPP.⁷ These correctional institutions argue that BPP will result in an increase in fraudulent inmate telephone calls and will simultaneously stop commission payments -- an important source of revenue for these institutions.⁸ These parties add

⁴ See, e.g., Comments of the Teltronics Group; Comments of the Midwest Coin Payphone Association; Comments of Capital Network System Inc.

⁵ See Comments of U.S. West at 14.

⁶ Comments of Capital Network System, Inc. at 2-3; Joint Comments of Cleartel Communications, et al. at 19-20.

⁷ Comments were filed by, e.g., the State of Tennessee Department of Finance and Administration, the Arizona Department of Corrections, and the American Jail Association.

⁸ Comments of the South Carolina Jail Administrators Association at ¶ 11.

that LECs are not equipped to watch for these types of fraudulent calls.⁹

Several parties also filed comments in support of BPP. Made up in large part by the BOCs that stand to gain the most from BPP, these parties predictably state that BPP's benefits are worth the costs.¹⁰ A great proportion of the comments of BPP supporters were taken up with cost projections, and suggestions about how they should be reimbursed for their costs in implementing BPP. These parties believe that because of the benefits of BPP and its inherently high costs, BPP should be mandatory and ubiquitous.¹¹

The pro-BPP parties believe that no significant post-dial delay will result from BPP implementation.¹² Moreover, some of these parties argue, BPP should not require callers to speak with

⁹ Comments of the Inmate Calling Service Providers Task Force of the American Public Communications Council at 15.

¹⁰ See, e.g., Comments of Bell Atlantic at 1; Comments of NYNEX at 16.

¹¹ Comments of Pacific Bell and Nevada Bell at 13. The "Pacific Companies" state that "[r]equiring BPP ubiquitously will alleviate customer confusion and help foster competition in the operator services marketplace." Id. NYNEX in its comments more directly admits that BPP must be required ubiquitously because of LEC expenditures. NYNEX Comments at 21.

¹² See Comments of Pacific Bell and Nevada Bell at 11; Comments of Bell Atlantic at 8.

two operators.¹³ Other parties, however, admit that BPP 0+ calls will require speaking with two operators, but believe that the caller would not have to repeat the same information twice.¹⁴

B. SUMMARY OF REPLY COMMENTS

Opticom believes that BPP's costs outweigh any marginal benefits to 0+ interLATA callers. Under BPP, consumers who are used to and satisfied with the present system of premises owner presubscription and dialing access codes must be retrained to understand the problems and inconsistencies of the new system. BPP will also transform the currently competitive marketplace in IXC, OSP and IPP services into an oligopoly of the LECs and larger IXCs. Both the OSP and IPP industries will be devastated by the implementation of BPP.

BPP's financial costs are staggering and will ultimately be paid by the consumer. In addition, the estimates of BPP's costs range widely, and even the supporters of this program admit that

¹³ Bell Atlantic believes that two operators will be unnecessary "because new network capabilities and SS7 interconnection will permit exchange carriers to pass on the information provided to them for carrier identification purposes to the interexchange carrier." Comments of Bell Atlantic at 8.

¹⁴ According to the Pacific Companies, the LEC will only gather certain information, leaving the OSP to "secure any necessary acceptances from the billed party." Comments of Pacific Bell and Nevada Bell at 9-10.

their estimates are highly speculative. The Commission cannot decide about a proposal as far-reaching as BPP without collecting adequate, objective and verifiable information about the costs associated with its implementation.

BPP will also hurt correctional institutions. Prisons and other correctional facilities currently work directly with IXCs and OSPs to detect and prevent inmate phone fraud, harassment and other criminality. Under BPP, correctional facilities could no longer work with one IXC and OSP, and prisoners would be able to commit crimes by telephone free from concerns about detection. The costs of the BPP system, both in economic and human terms, are far too high for the Commission to proceed further with this rulemaking.

II. DISCUSSION

A. CONSUMER CONFUSION AND FRUSTRATION WITH BPP WILL DWARF SHORTCOMINGS OF PREMISES OWNER PREFERENCE

1. The "Double Operator" Issue Will Annoy and Frustrate Callers

Implementation of BPP will require 0+ interLATA callers to have to pass along information to two or more operators. Under current plans for BPP, 0+ calls will initially be routed to the LEC Operator Service System ("OSS").¹⁵ The LEC operator must come on line and determine the nature of the call, query the LIDB

¹⁵ Comments of CompTel at 14.

to identify the OSP and then forward the call to the OSP.¹⁶
The OSP must then ask for the same information from the caller.
One BPP supporter, BellSouth Telecommunications has observed,

in a BPP system the customer is still required to interact with two distinct operator service systems; this fact is not changed by automating the operator function of one or both OSPs . . . Moreover, customers using AABS may elect to bypass the system to reach an operator. A customer choosing this alternative on a collect or third number call would have to provide call information to the LEC operator and subsequently obtain call acceptance from the IXC operator.

Comments of BellSouth Telecommunications at 14.

However, some BPP supporters claim that this double operator problem will not occur. Bell Atlantic states that BPP

would not require callers to provide the same information twice or speak with two operators. This is because new network capabilities and SS7 interconnection will permit exchange carriers to pass on the information provided to them for carrier identification purposes to the interexchange carrier.

Bell Atlantic Comments at 8. Bell Atlantic, however, does not provide any detailed information about how the "new network capabilities" and "SS7 interconnection" will circumvent the double operator problem. Bell Atlantic also does not indicate whether these capabilities will be available to non-LEC OSPs,

¹⁶ Id.

whether these technologies will be available to all IXCs, and whether these services will be provided at a reasonable cost.

Other BPP boosters are not optimistic about double operator problems. Pacific Bell and Nevada Bell (the "Pacific Companies"), for example, admit that callers will have to talk to two operators, but rationalize this by theorizing that the two operators can split the information they receive from the caller.¹⁷ Unfortunately, even a partial elimination of the double operator problem -- if technically feasible -- will be costly. The Pacific Companies admit, for example, that the double operator problem can be alleviated by installing Automated Alternate Billing Services ("AABS"), but only "[w]here call volumes justify it." Comments of Pacific Bell and Nevada Bell at 10. Because smaller LECs have lower call volume, AABS would therefore not be justified, and smaller LECs would provide services with the double operator problem.

BPP supporters have not demonstrated that callers would not have to give information to two operators, as referenced in the Commission's NPRM.¹⁸ The supporters of BPP have also failed to show that deployment of SS7 and AABS can be made universally

¹⁷ Comments of Pacific Bell and Nevada Bell at 9-10.

¹⁸ See NPRM at ¶ 26.

by independent LECs at reasonable cost.¹⁹ In addition, the BOCs and others have not indicated the "availability and cost of any OSP technology to eliminate this [double operator] problem."²⁰ Without this information, the Commission cannot equitably make a decision to implement BPP.

2. Inconsistent Implementation of BPP will annoy and confuse consumers

Even if BPP is mandated by the Commission, its implementation is many years away.²¹ By that time, 0+ callers will have had many years to get used to access code dialing, and will be unfamiliar with the new system. Unlike the present system of premises-owner presubscription that callers have grown, and will continue to grow, accustomed to, BPP will exhibit several inconsistencies that will prove befuddling to consumers used to the present system.

Under BPP, if a consumer makes a sent-paid call, the call will continue, presumably, to be carried by the carrier

19 Id.

20 Id.

21 Most of BPP's supporters agree that BPP cannot be implemented for several years. See Comments of Bell Atlantic at 2 ("mid 1996 at the earliest."). However, MessagePhone claims that it can implement BPP right away. Comments of MessagePhone at 18. Without further analysis, it is unclear how MessagePhone's "line-side architecture" will fulfill BPP requirements, however. Even other BPP supporters have not proposed the methods MessagePhone suggests.

presubscribed to the payphone. If the consumer then places a 0+ call interLATA, the billed party's carrier will theoretically carry the call. If the same consumer then places a 0+ intrastate call, that call will be carried by yet another carrier.²²

Contrary to the Commission's avowed purpose of creating a more "user friendly" system, BPP will manifest many inconsistencies and represents a confusing change for the worse for 0+ callers.

The consumer's confusion will increase when using payphones in non-equal access areas after BPP is implemented. Although some supporters of BPP argue that BPP should apply to non-equal access locations,²³ BPP will not apply in these areas, as 0+ calls completely bypass the LEC central switch.²⁴ Unless the Commission mandates that the LECs -- including the BOCs -- control non-equal access calling, callers using payphones in non-equal access areas will not have access to BPP.

In addition, parties filing comments opposed to BPP indicate that BPP will be unavailable in several other situations.

Aggregators served by special access arrangements and competitive

²² The Commission, of course, cannot mandate BPP for intrastate calls. Many states have already adopted premises owner presubscription for intrastate calls, and might very well not follow the Commission's lead if the Commission imposes BPP. See Comments of the State of South Carolina Division of Information Resource Management at 5.

²³ Comments of Southwestern Bell Telephone Company at 18.

²⁴ Comments of International Telecharge at 4-5.

access providers both bypass LECs.²⁵ These service providers will not implement BPP. Additionally, automated store and forward devices that allow the originating phone to collect calling card information and route the call as a 1+ call to a presubscribed IXC would also not be served by BPP unless the Commission expands the scope of its rulemaking and divests small telecommunications companies of their property.²⁶ Consumers would thus be faced with an array of 0+ calls that will not be routed under BPP and will cause needless frustration.

Consumers who have had several years to become familiar with the present system of premises-owner presubscription and access code dialing will have to be educated about the new BPP system. Consumers of 0+ services will have to be taught where BPP is available and where it is not. Consumers will also have to be educated about the differences between 0+ calling and 1+ calling and sent-paid calling in order to avoid confusion about the discrepancies in calling and billing results. Once consumers are aware of the inconsistencies and problems associated with BPP, it

²⁵ Comments of International Telecharge Inc. at 4-5; Comments of the Competitive Telecommunications Association at 19-20.

²⁶ See, Comments of International Telecharge Inc. at 4-5; Comments of the Competitive Telecommunications Association at 19-20.

is likely that most consumers will agree that the new 0+ interLATA system is not "user-friendly."²⁷

3. Despite the hollow protestations of BPP supporters, post dial delay will result.

Increased post-dial delay will be the natural result of BPP implementation. BPP will require an LIDB database query and routing to the billed party's carrier, which will take more time than the present, direct presubscription system.

BPP supporters dispute this common sense conclusion, speculating that, "[w]ith the implementation of AABS technologies, completing an automated collect or billed third party call may well take less time than such calls require today using 'live' operators."²⁸ BPP supporters, however, do not offer any firm data or analysis that would show that BPP will not increase call set-up times. Instead, they state that BPP will have no effect on post-dial delay in a conclusory and unsubstantiated way.²⁹

²⁷ See NPRM at ¶ 16.

²⁸ Comments of Sprint Corporation at 26. See also, Comments of SouthWestern Bell Tel. Co. at 15.

²⁹ Bell Atlantic, for example, states without justification or explanation that "with SS7 signaling between exchange and interexchange carriers, access times for billed party preference calls should be no greater than today's access times." Comments of Bell Atlantic at 8.

Simple common sense dictates that BPP must increase post-dial delay. As discussed above, BPP will require that two operators handle calls where only one is necessary under the present system.³⁰ AABS technology, in addition, will not seriously reduce the delay problem because the same LIDB query will still be necessary and the caller will still be forced to provide further information.³¹ With these additional requirements under BPP, caller access times will undoubtedly increase.

4. Premises-Owner Presubscription and Access Code Dialing is Acceptable to Consumers

According to recent public opinion research, consumers do not dislike access code dialing despite what BPP supporters would have the Commission believe. BellSouth has conducted market research that indicates that among frequent calling card callers,

most participants were familiar with the system of payphone presubscription and understood the use of access codes to obtain service from an alternate carrier. Access code dialing was not viewed as a significant issue by the respondents, many of whom routinely used this method to obtain service from their desired carrier.

Comments of BellSouth Telecommunications at 9. The BellSouth study shows that the present system of premises-owner

³⁰ Comments of CompTel at 14; see also discussion at II(A)(1) above.

³¹ Comments of CompTel at 15.

presubscription works well and that consumers are becoming more satisfied. The study also demonstrates that many consumers currently are able to use their carrier of choice in their 0+ interLATA calling, obviating the need for BPP.

B. ELIMINATION OF COMPETITION IN THE OSP, PAYPHONE AND IXC INDUSTRIES WILL PRODUCE AN OLIGOPOLY AND HURT CONSUMERS

The Commission and the courts in the last several decades have provided the impetus for many pro-competitive changes in the telecommunications industry. This rulemaking represents a substantial step backward for the Commission and the industry. BPP will provide the BOCs and others with a windfall of oligopoly power at the expense of IXCs, OSPs and IPPs. Contrary to all reason and logic, and undoubtedly for reasons of self-interest, BOCs claim that BPP will be procompetitive. Only if one defines "pro-competitive" as "in the interests of the large LECs" can BPP be said to encourage competition.

1. Plentiful Payphones are Clearly in the Public Interest And Will Be Reduced Under BPP

The Commission's allegedly pro-consumer plan to redirect the focus of competition in the payphone industry toward the end-user will only serve to harm the consumer. BPP's supporters attempt to hide and distort the economic results of their proposal -- fewer payphones for consumers and less competition among payphone providers.

The present system of premises-owner presubscription provides remuneration to a key figure in the payphone market, the aggregator who maintains the premises around the phone. BPP, on the contrary, does not recognize the importance of premises owners or their interests in the payphone provider equation. Significantly, premises owners provide space for the payphone, make sure that the area around the payphone is in good condition, and report service problems to the IPP. Additionally, Coin Operated Customer Owned Telephone ("COCOT") owners actually own the phone equipment as well as provide for the upkeep.

By eliminating commission payments to the premises owner, and destroying the IPPs, BPP will effectively reduce the number of payphones available to the public. Why should aggregators use valuable space on their premises for payphones without any incentive? Only well-trafficked locations will justify payphone placement and the attendant sent-paid commission payments. As one BPP supporter states:

Competition in the competitive payphone market would also be damaged [by BPP], since, without the assurance that all traffic from a location will be directed to a single carrier, ICs and competitive payphone providers would no longer be able or willing to guarantee commission payments to large premises owners to retain those locations. In turn, the airports, hotels, motels and other aggregator locations could lose significant commission payments they receive from ICs and competitive payphone providers. The result may be higher costs to the

customers using those facilities, as well as a loss of the incentive by these premises owners to provide public phones at their locations.

Comments of NYNEX at 15-16.³² This will undoubtedly result in fewer payphones and many frustrated 0+ callers.

The Commission and some BPP supporters purport to solve this potential crisis by speaking vaguely of paying IPPs some form of compensation.³³ This will not obviate concerns about the payphone industry, however. IPPs, under BPP, would no longer be able to guarantee commission payments to large premises owners to keep these payphones without some form of guaranty that traffic would be directed to a single carrier.³⁴ IPPs will thus still be devastated by BPP. Additionally, BPP will make worthless the substantial investment COCOT owners have made in phone equipment.

2. The BOCs will now have additional leverage over smaller IXC's and LECs

If BPP is implemented, the LECs will have a central bottleneck role in 0+ call processing.³⁵ This monopolistic role simultaneously will hurt both small IXC's and LECs. Smaller

³² Ironically, despite its cognizance of this problem, NYNEX nevertheless supports BPP.

³³ See Comments of SouthWestern Bell Tel. Co. at 15.

³⁴ Comments of NYNEX at 15-16.

³⁵ Joint Comments of Cleartel Communications, Inc., et al., at 15.

LECs will be forced to use expensive network systems like SS7 and the AABS, or run afoul of the BPP rules.³⁶ It is unclear whether small LECs with limited finances will be able to afford these BPP necessities. Moreover, the IXC's that interact with these LECs will also be forced to deploy expensive connecting systems, again raising the question of whether they will have the financial resources to implement BPP.

Large LEC domination of smaller IXC's is inevitable under BPP. Southwestern Bell Telephone ("SWBT") admitted to LEC leverage over IXC's after BPP is implemented.³⁷ Complaining that access code dialing bypasses their network, precluding them from entering card honoring agreements with IXC's other than AT&T, SWBT expressed satisfaction that BPP will eliminate access codes and will enable LECs like SWBT to enter into card honoring agreements.³⁸ What SWBT failed to point out was that BPP's reestablishment of a LEC bottleneck will enable LECs like SWBT to dictate the terms of these card honoring agreements to IXC's.

³⁶ Id.

³⁷ Comments of SWBT at 9.

³⁸ Comments of SWBT at 9. SWBT states that "BPP. . . should allow IXC's to promote their billing mechanisms from any phone and without the use of access code dialing." Id. SWBT also believes that "BPP provides the mechanism required for SWBT to seek mutual card honoring agreements (MCHAs) with all IXC's."

3. BPP will give LECs oligopoly control in the OSP market

The Commission's BPP proposal will force many OSPs out of business by giving the LECs and larger IXCs huge anti-competitive advantages. Under BPP, the LECs will provide all initial operator processing for 0+ interLATA calls.³⁹ This control over the initial operator services will provide the LECs and larger IXCs with operator services capabilities with dominant control over the provision of operator services.

BPP supporters disingenuously argue that BPP will improve competition in the OSP marketplace. Sprint, for example, proclaims that BPP will "promote consumer-focused operator service competition."⁴⁰ Sprint adds that, "under billed party preference, all OSPs can offer calling cards with the convenience of 0+ access."⁴¹ Because Sprint -- like MCI and AT&T -- has a calling card with widespread LATA capabilities, it is, of course, in its best interests to back BPP. Sprint and MCI conveniently fail to mention that many OSPs cannot afford to offer calling cards and that BPP will effectively limit competition to only the largest OSPs with the greatest market power. As NYNEX admits,

³⁹ See Comments of AT&T at 15.

⁴⁰ Comments of Sprint Corporation at 16.

⁴¹ Id.

billed party preference would clearly damage competition in the operator services marketplace. Small, specialized OSPs which provide services at traffic aggregator locations would likely lose a large portion of their business, as 0+ dialed traffic was redirected to the major interexchange carriers.

Comments of NYNEX at 15. NYNEX also believes that it will need to hire many more operators in order to implement BPP.⁴² Obviously, since OSPs will no longer have any significant role under BPP, the LECs must make provisions to replace these operators in-house. Sadly, the Commission in this rulemaking has disregarded the pleas of OSPs in order to bolster the monopolies of the large LECs.

C. THE HIGH FINANCIAL COSTS OF BPP WILL ULTIMATELY BE PAID BY CONSUMERS

The costs of implementing BPP are prohibitive and will result in higher rates for 0+ interLATA calls. The LECs and other BPP supporters know that BPP will be extraordinarily expensive, and thus advocate passing along all of their costs to IXC's and ultimately to consumers.⁴³ Moreover, BPP's costs are, in reality, a question mark, as no reliable cost projections have been submitted to the Commission. Consumers already have easy access to their carrier of choice, so BPP will provide consumers

⁴² Comments of NYNEX at 10.

⁴³ See Comments of AT&T at 12.

with redundant services for a lot more money, although how much more is anyone's guess.

Estimates for the costs of implementing BPP vary widely. Nevertheless, several of these estimates will be briefly reviewed. Bell Atlantic believes optimistically that BPP for all 0+ traffic will only require one-time expenses of \$86 million and annual expenses of \$7 million.⁴⁴ The Ameritech Operating Companies predict that BPP for all interLATA 0+ traffic will require one-time expenses of \$50,787,000 and annual costs of \$20,921,000.⁴⁵

Other commenting parties -- even BPP supporters -- disagree with the unrealistic estimates of Bell Atlantic and Ameritech and admit that the costs of implementing BPP will be more substantial. NYNEX projects that BPP implementation for just its region for all interLATA 0+ traffic will cost \$77.5 million for one-time and capital expenses and an additional annual

⁴⁴ Comments of Bell Atlantic, Attachment A. Needless to say, Bell Atlantic provides no detail to support its cost assumptions, and admits cryptically that "[t]hese estimates are based upon a number of predictions and assumptions concerning factors over which Bell Atlantic has no control... and, therefore, the actual cost could be significantly different."

⁴⁵ Comments of the Ameritech Operating Companies at 16. Ameritech even goes so far as to contend that with projected cost savings from BPP, "the financial impact of BPP may be a net gain." *Id.* at 20. Ameritech does not say, however, that consumers would receive any savings under BPP.

expenditure of \$6.5 million.⁴⁶ Pacific Bell and Nevada Bell estimate that BPP will require \$116 million in implementation costs and ongoing costs of \$26 million per year.⁴⁷ The range of estimates translates into a BPP cost of between \$.42 and \$.96 for every 0+ call placed.⁴⁸

Moreover, these estimates represent only part of the story. Left out of the plethora of assumptions, costs and projections submitted are the costs that other parties must pay to implement BPP. As AT&T relates,

[i]mplementation of this new procedure will also require IXCs to make costly changes in their operator systems, and to reconfigure their networks to accommodate this proposal. Specifically, AT&T estimates that it would require at least \$30 million in development costs to modify AT&T's Operator Services Positions System ("OSPS") switching equipment so that it could receive from the LECs' OSS equipment the additional Signaling System 7 ("SS7") protocol information necessary to implement billed party preference.

Comments of AT&T at 12-13. Multiplied by the number of IXCs, these costs run into the many millions of dollars.

As even the supporters of BPP recognize, the speculative nature of these cost estimates shows that BPP's costs cannot be

⁴⁶ Comments of NYNEX at 5.

⁴⁷ Comments of Pacific Bell and Nevada Bell at 22.

⁴⁸ Comments of the Competitive Telecommunications Association at 22.

truly analyzed with any degree of confidence or precision.

Sprint, for example, states that

at this stage of billed party preference procedural development, many uncertainties exist relative to the ultimate service design of billed party preference. Therefore, estimating the cost of billed party preference with any degree of accuracy is speculative at best.

Comments of Sprint Corporation at 19. SWBT initially estimated that BPP could be implemented for \$50 million. However, this estimate was rendered worthless when SWBT was given new vendor price estimates that changed from \$75 million and then to \$127 million, an overall 154% increase.⁴⁹ SWBT believes that "[t]here is simply too much information not yet provided to SWBT to permit total costs and resulting analyses to be provided with reasonable confidence."⁵⁰

In short, the Commission is endorsing a proposal with no defined price tag. The record in this proceeding is inadequate to support a reasoned public interest determination on the relative merits of BPP. Therefore, implementing BPP at this time would not be supported by substantial evidence and would be an abuse of administrative discretion.

49 Comments of SWBT at 10.

50 Comments of SWBT at 13.

D. BPP WILL LEAD TO SUBSTANTIAL AND UNCHECKED INCREASES IN
PAYPHONE FRAUD IN CORRECTIONAL INSTITUTIONS

Correctional institutions often operate payphones for inmate use.⁵¹ Prisoners' use of these phones to perpetrate telephone fraud, harass judges, prosecutors and juries, and conduct criminal activities with their accomplices on the outside, has become of increasing concern for many correctional facilities.⁵² Under the present system, the prisons can work directly with the inmate telephone provider and the designated, presubscribed IXC to block certain telephone numbers and detect patterns of fraudulent billing and other criminal activity.⁵³ Specialized OSPs can also provide customized calling reports to facilitate criminal detection.⁵⁴

BPP will lead to more frequent fraudulent calling and unfettered use of prison payphones to engage in criminal activity. Many LECs and IXCs cannot provide call blocking and detection services like the inmate telephone providers working in

⁵¹ The Arizona Department of Corrections states that telephone providers supply 700 telephones in their prison yards. Comments of the Arizona Department of Corrections at 2.

⁵² Id. See also, Comments of the South Carolina Jail Administrators Association at ¶ 5.

⁵³ Id. at 4.

⁵⁴ Comments of the South Carolina Jail Administrators Association at ¶ 9.